

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST

FMS INVESTMENT CORP., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Nos. 18-862C, 18-872C, 18-873C,
)	18-889C, 18, 894C, 18-895C,
)	19-901C, 18-946C
THE UNITED STATES,)	
)	
Defendant,)	Judge Thomas C. Wheeler
)	
and)	
)	
ALLTRAN EDUCATION, INC.,)	
)	
Intervenor-Defendant.)	

DECLARATION OF PETER OPPENHEIM

I, Peter Oppenheim, Assistant Secretary for Legislation and Congressional Affairs, United States Department of Education ("The Department"), hereby make the following declaration in lieu of an affidavit, as permitted by Section 1746 of Title 28 of the United States Code. I am aware that this declaration will be filed with the United States Court of Federal Claims in connection with the bid protest captioned above and related cases. I also understand that this declaration is the legal equivalent of a statement under oath. I make this declaration to the best of my knowledge and belief, based on my personal knowledge and on information made available to me in my official capacity:

1. As the Assistant Secretary for Legislation and Congressional Affairs, I am responsible for all matters concerning the Department's legislative activities and relations with Congress including assuring the Department is responsive to Congressional requests for information.
2. I understand that in the course of this bid protest, Representative Peter James Roskam has filed a declaration regarding the Department's decisions related to how defaulted student

loan borrowers are serviced. Representative Roskam also expresses his dissatisfaction with the Department's communication with his office concerning the planned recalls.

3. On June 28, 2018, Senate Committee Report No. 115-289 ("Senate Committee Report") came to the Department's attention. That Senate Committee Report stated:

The Committee is concerned with the Department's recent management of the defaulted Federal student loan process and with the capacity of current private collection agencies receiving new accounts to be able to properly serve borrowers who have defaulted on their loans. Accordingly, the Committee encourages the Department to extend current contracts with private collection agencies whose award term extensions are set to expire in April 2019, and that are affirmatively meeting all contract requirements, serving the fiscal interest of the United States, and complying with applicable consumer protection laws until the Department is able to transition to a new collections process as part of the Department's Next Generation Financial Services Environment. Furthermore, the Committee directs the Department not to recall accounts that are not in repayment from such private collection agencies and allow them to continue servicing their current portfolio to avoid disruptions for borrowers, and to comply with the performance reporting requirements of the explanatory statement accompanying the Consolidated Appropriations Act, 2018.

4. The Department received a request from the Senate Committee on Health, Education, Labor and Pensions to discuss the Senate Committee Report on June 28, 2018.
5. The Department elected to postpone the planned July 3, 2018 recall to consider the positions in the Senate Committee Report.
6. The Department discussed its views of the positions of the Senate Committee Report with David Cleary, the Staff Director of the Senate Committee on Health, Education, Labor, and Pensions on June 29, 2018.
7. Congress was not in session for the week of July 2-8, 2018.
8. The Department discussed its view of the positions of the Senate Committee Report with Robert Moran, Education Policy Director of the Senate Committee on Health, Education, Labor, and Pensions, on July 9, 2018.

9. Following its consideration of the positions, the Department decided to proceed with the planned recall on July 13, 2018.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of July, 2018.

A handwritten signature in blue ink, appearing to read 'P. Oppenheim', is written over a horizontal line.

Peter Oppenheim
Assistant Secretary for Legislation and Congressional Affairs
United States Department of Education